



NEW JERSEY STATE BAR ASSOCIATION

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May 8, 2019

Hon. Nicholas P. Scutari
Senator, District 22
1514 E. Saint Georges Avenue, 2nd Floor
Linden, NJ 07036

Re: S-815

Dear Senator Scutari:

I am sure you share my dismay at the onslaught of attorney solicitation letters accident victims in New Jersey receive within just days of the crash. With advances in technology, trolling police blotters has evolved into accident apps that notify lawyers when accidents occur, and letters once sent in the mail have evolved to pop-up ads on mobile devices geotargeted to vulnerable individuals, such as individuals using Facebook while a person is at a hospital. These practices prey on the vulnerable, give the legal profession a bad name and ultimately make it less likely that individuals will eventually seek out the legal assistance they really need.

As I began my term as NJSBA president a year ago, I was determined to try to address at least some of these issues. I put in place an ad hoc committee charged with studying attorney advertising that looked at whether limits should be placed on solicitation of personal injury clients. One potential solution the Committee examined was your legislative proposal, S-815, which restricts access to motor vehicle reports under certain circumstances. The current version of the proposal restricts access to police reports for 90 days following an accident. The Committee recommended, and our Board of Trustees agreed, that a 30-day prohibition would achieve the same goals, but would be less problematic. In particular, a 30-day ban would allow time for any tort claim notices that might have to be filed, as opposed to the proposed 90-day ban, which eliminates that opportunity. A 30-day ban would also be consistent with the ban on contacting victims of mass disasters currently contained in R.P.C. 7.3(b)(4). You may recall that ban was put in place following the Durham Woods pipeline explosion and has worked well to ensure individuals have time to gain their composure following a disaster before having to speak with an attorney and make major decisions.

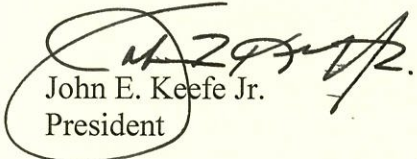
In addition to supporting your legislation as a means to regulate attorney solicitations, the NJSBA is also urging the New Jersey Supreme Court to expand the application of the 30-day ban in the Rules of Professional Conduct to all situations, not just those involving a mass disaster. That way, even if an individual obtains accident information despite the 30-day ban established

by your legislation, it would be unethical for an attorney to use that information prematurely to solicit potential clients.

While these two actions would be first steps in addressing the solicitation issue, the NJSBA recognizes that even more work needs to be done to address the technological evolutions noted above. For that reason, the NJSBA is continuing to study new ways that accident information is being collected and how individuals are being solicited. We vow to endeavor to develop future recommendations to address the issues it uncovers.

For now, however, passage of S-815 with a workable ban on accessing police records is important progress forward. I would welcome an in -person meeting to discuss the issue with you further to determine how the NJSBA can best assist with ensuring the bill's enactment.

Very truly yours,



John E. Keefe Jr.
President

/sab

cc: Evelyn Padin, NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director